

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

LA UNIÓN DEL PUEBLO ENTERO, *et al.*,

Plaintiffs,

v.

GREGORY W. ABBOTT, *et al.*,

Defendants.

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Case No. 5:21-cv-844-XR
[Lead Case]

LEAGUE OF UNITED LATIN AMERICAN
CITIZENS, *et al.*,

Plaintiffs,

v.

JOHN SCOTT, *et al.*,

Defendants.

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§
§
§

Case No. 1:21-cv-786
[Consolidated Case]

EXHIBIT A

EMAIL OF 02.24.2022

Jack DiSorbo

From: Jack DiSorbo
Sent: Thursday, February 24, 2022 4:24 PM
To: Haley Costello Essig; Eric Hudson; Leif Olson; Aaron Barnes; Jeff White; Kathleen Hunker; Patrick Sweeten; Will Thompson
Cc: Olson, Wendy J.; Nina Perales; ryan@texascivilrightsproject.org; lromano@disabilityrightstx.org; liz.ryan@weil.com; Michael.Keats@friedfrank.com; chostetler@freespeechforpeople.org; Rasich, Marc; jholmes@naacpldf.org; scummings@reedsmith.com; wakschlag@thearc.org; slakin@aclu.org; asavitzky@aclu.org; morales-doyles@brennan.law.nyu.edu; tbuser-clancy@aclutx.org; Watkins, Elijah M.; Daniel Freeman; Jasleen Singh; Patrick Berry; Michael.Stewart3@usdoj.gov; Uzoma Nkwonta; Kassi Yukevich; Graham White; Marcos Mocine-McQueen; Noah Baron; Mike Jones
Subject: RE: LUPE v. Abbott - Deficient Legislator Production

Haley,

Please allow me to respond on Eric's behalf. We received your letter regarding your understanding of the document production in response to the subpoenas to Representatives Briscoe Cain and Andrew Murr, and Senators Paul Bettencourt and Bryan Hughes. We believe we can address or clarify your concerns.

As your letter notes, we collected roughly 1,700 documents from the subpoena recipients. We think there may be some inadvertent confusion regarding this number. In Eric's email of 02/03/2022, he said: "We have identified responsive documents (roughly 1,700, as I understand it), and we are currently conducting a review of those documents." To clarify, the 1,700 number refers to documents that we collected from the subpoena recipients, not the number of documents identified as responsive to the requests. And so although in your letter you express concerns regarding the proportion of documents produced to responsive documents identified, that concerns appears to be based on a misunderstanding.

Regarding our production, as your letter notes, we produced 232 documents on February 11, 2022. And then yesterday, February 23, we produced an additional 210 documents, for a grand total of 442 documents. This sum constitutes all of the responsive documents we have identified to date that are not subject to privilege. We will continue search thoroughly for documents that are responsive to the subpoena requests, and will be sure to timely supplement our productions if necessary.

In addition to the 442 documents that we produced, there is a body of documents that we have withheld based on the attorney-client privilege, attorney work product, the legislative privilege, and other applicable privileges. We are diligently working on a privilege log so that you can evaluate each privilege claim, and we will promptly deliver it. We continue to disagree with your assertion, Letter p. 2, that it is "improper as a matter of law," to withhold documents based on the attorney-client privilege, the legislative privilege, attorney work product, and other privileges. But after reviewing the privilege log, should you conclude that you believe a privilege does not exist as applied to certain documents, we would welcome the opportunity to meet and confer on the subject.

In addition, your letter, at p.2, refers to several specific concerns, such as that attachments may have been omitted from individual documents included in the production. Just as with the subject of applicable privileges, we would be happy to confer on any specific topics regarding the two productions. I'm unable to discern any particular documents of interest from the face of your letter, but please correct me if I have misunderstood.

We hope that our supplemental production and the explanations provided here are helpful to the matters you identified in your letter. It is always our intention to work together and accommodate one another in our pursuit of litigation these cases and coordinating these hundreds of parties and non-parties. And we will continue to ensure we take the actions necessary to fully comply with our obligations in connection with the responses to Plaintiff's subpoenas.

Sincerely, Jack DiSorbo

Jack DiSorbo
Assistant Attorney General, Special Litigation Unit
Office of the Attorney General
Work: (512) 936-1067
Cell: (713) 628-7407
Jack.DiSorbo@oag.texas.gov

From: Haley Costello Essig <hessig@elias.law>
Sent: Tuesday, February 22, 2022 2:39 PM
To: Eric Hudson <Eric.Hudson@oag.texas.gov>; Leif Olson <Leif.Olson@oag.texas.gov>; Aaron Barnes <Aaron.Barnes@oag.texas.gov>; Jeff White <Jeff.White@oag.texas.gov>; Kathleen Hunker <Kathleen.Hunker@oag.texas.gov>; Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>
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Subject: LUPE v. Abbott - Deficient Legislator Production

Counsel:

Please see the attached letter regarding the deficient document production from Texas House of Representatives Members Briscoe Cain and Andrew Murr, and Texas Senators Paul Bettencourt and Bryan Hughes.

Thank you.

Haley K. Costello Essig
[Elias Law Group LLP](#)

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From: Eric Hudson <Eric.Hudson@oag.texas.gov>

Sent: Thursday, February 3, 2022 3:10 PM

To: Haley Costello Essig <hessig@elias.law>; Leif Olson <Leif.Olson@oag.texas.gov>; Aaron Barnes

<Aaron.Barnes@oag.texas.gov>; Jeff White <Jeff.White@oag.texas.gov>; Kathleen Hunker

<Kathleen.Hunker@oag.texas.gov>; Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>

Cc: Olson, Wendy J. <wendy.olson@stoel.com>; Nina Perales <nperales@maldef.org>; ryan@texascivilrightsproject.org;
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scummings@reedsmith.com; wakschlag@thearc.org; slakin@aclu.org; asavitzky@aclu.org; [\[doyles@brennan.law.nyu.edu\]\(mailto:doyles@brennan.law.nyu.edu\); \[tbuser-clancy@aclutx.org\]\(mailto:tbuser-clancy@aclutx.org\); Watkins, Elijah M. <\[elijah.watkins@stoel.com\]\(mailto:elijah.watkins@stoel.com\)>; Daniel](mailto:morales-</p></div><div data-bbox=)

Freeman <daniel.freeman@usdoj.gov>; Jasleen Singh <singhj@brennan.law.nyu.edu>; Patrick Berry

<berryp@brennan.law.nyu.edu>; Michael.Stewart3@usdoj.gov; Uzoma Nkwonta <unkwonta@elias.law>; Kassi Yukevich

<kyukevich@elias.law>; Graham White <gwhite@elias.law>; Marcos Mocine-McQueen <mmcqueen@elias.law>; Noah

Baron <nbaron@elias.law>; Mike Jones <mjones@elias.law>

Subject: RE: LUPE v. Abbott - Objections and Responses to Subpoenas for Production

Thanks for reaching out, Haley.

As you're aware, the responses were delivered to you on January 20, and a large portion of the team handling those responses traveled to El Paso during the week of January 24, 2022, for preliminary injunction hearing that last four days. Yesterday afternoon, today, and tomorrow have been impacted by a major snow storm that has hit the Austin area.

We have identified responsive documents (roughly 1,700, as I understand it), and we are currently conducting a review of those documents. We anticipate having those out early next week. We'll also supplement our responses to include any documents we're withholding based upon privilege or other objection next week.

In addition to that matter, we have forwarded notices of 30(b)(6) topics to you and other plaintiffs' counsel. Have you all had a chance to review and do you have any objections to the topics that we can address today? If so, let's handle that as well so we can get those depositions on the books.

As always, please reach out with any immediate questions or concerns.

s/Eric Hudson

From: Haley Costello Essig <hessig@elias.law>

Sent: Thursday, February 3, 2022 1:59 PM

To: Leif Olson <Leif.Olson@oag.texas.gov>; Aaron Barnes <Aaron.Barnes@oag.texas.gov>; Eric Hudson

<Eric.Hudson@oag.texas.gov>; Jeff White <Jeff.White@oag.texas.gov>; Kathleen Hunker

<Kathleen.Hunker@oag.texas.gov>; Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>

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chostetler@freespeechforpeople.org; Rasich, Marc <marc.rasich@stoel.com>; jholmes@naacpldf.org;

scummings@reedsmith.com; wakschlag@thearc.org; slakin@aclu.org; asavitzky@aclu.org; [\[doyles@brennan.law.nyu.edu\]\(mailto:doyles@brennan.law.nyu.edu\); \[tbuser-clancy@aclutx.org\]\(mailto:tbuser-clancy@aclutx.org\); Watkins, Elijah M. <\[elijah.watkins@stoel.com\]\(mailto:elijah.watkins@stoel.com\)>; Daniel](mailto:morales-</p></div><div data-bbox=)

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<kyukevich@elias.law>; Graham White <gwhite@elias.law>; Marcos Mocine-McQueen <mmcqueen@elias.law>; Noah Baron <nbaron@elias.law>; Mike Jones <mjones@elias.law>

Subject: RE: LUPE v. Abbott - Objections and Responses to Subpoenas for Production

Counsel:

It has been one week since we sent you a request to meet and confer regarding the overdue production responsive to the third-party subpoenas issued to Senator Hughes, Senator Bettencourt, Representative Cain, and Representative Murr, and we still have not received a statement of available or proposed times from you. To reiterate, we seek (1) a date certain by which you will produce documents and (2) a statement of whether documents will be withheld pursuant to the stated objections or reservations of purported privilege, specifically claims of legislative and deliberative process privilege.

As the parties are convening this afternoon to discuss other matters related to a protective order and ESI agreement, we propose that we address these matters immediately following such discussion in the same conference. We welcome your response to these matters via email in advance of that conference in hopes that may narrow the points of disagreement or obviate the need for discussion altogether. If we are unable to timely resolve these issues, we will have no choice but to file a motion to compel production to avoid further delay.

Kind regards,

Haley K. Costello Essig

Elias Law Group LLP

202-968-4675

(she/her)

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From: Haley Costello Essig

Sent: Friday, January 28, 2022 9:43 AM

To: Leif Olson <Leif.Olson@oag.texas.gov>; Aaron Barnes <Aaron.Barnes@oag.texas.gov>; Eric Hudson <Eric.Hudson@oag.texas.gov>; Jeff White <Jeff.White@oag.texas.gov>; Kathleen Hunker <Kathleen.Hunker@oag.texas.gov>; Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>

Cc: Olson, Wendy J. <wendy.olson@stoel.com>; Nina Perales <nperales@maldef.org>; ryan@texascivilrightsproject.org; lromano@disabilityrightstx.org; liz.ryan@weil.com; Michael.Keats@friedfrank.com; chostetler@freespeechforpeople.org; Rasich, Marc <marc.rasich@stoel.com>; jholmes@naacpldf.org; scummings@reedsmith.com; wakschlag@thearc.org; slakin@aclu.org; asavitzky@aclu.org; morales-doyles@brennan.law.nyu.edu; tbuser-clancy@aclutx.org; Watkins, Elijah M. <elijah.watkins@stoel.com>; Daniel Freeman <daniel.freeman@usdoj.gov>; Jasleen Singh <singhj@brennan.law.nyu.edu>; Patrick Berry <berryp@brennan.law.nyu.edu>; Michael.Stewart3@usdoj.gov; Uzoma Nkwonta <unkwonta@elias.law>; Kassi Yukevich <kyukevich@elias.law>; Graham White <gwhite@elias.law>; Marcos Mocine-McQueen <mmcqueen@elias.law>; Noah Baron <nbaron@elias.law>; Mike Jones <mjones@elias.law>

Subject: RE: LUPE v. Abbott - Objections and Responses to Subpoenas for Production

Thank you for your response, Leif. We do not believe that this matter requires all hands on deck, so we are glad to hear that at least some of your team is not involved in the trial or PI hearing preparation. We hope and expect those members can attend a meet and confer early next week. Our intent is to discuss the timing of the production and the basis for any withholdings.

Your clients have not refused to produce documents. Instead, the responses state that production will be made on an unspecified "rolling basis within a reasonable time." We believe that this is insufficient and problematic, as your team has not made any attempt to discuss the confines of that rolling basis, or what you deem to be reasonable, with us

either before or after unilaterally adopting such a basis. As you are aware, the production deadline for documents pursuant to the subpoenas has come and gone, and while you have sent responses indicating that you intend to produce documents, that was over a week ago, and we have yet to receive a single document. Time is of the essence. To the extent we cannot agree on the timing, we will need to move to compel production with the Court.

Furthermore, the responses reserve privilege and other objections that have no legal basis, as previously explained in our January 7, 2022, letter. The responses state that searches have already been run to collect documents. We would, therefore, like to understand what objections, if any, you intend to rely upon to withhold documents. We previously discussed this with Mr. Hudson at our meet and confer on January 10 following receipt of your January 1, 2022, letter objections. Mr. Hudson informed us that, as of January 10, he was unable to state whether documents would be withheld pursuant to these baseless objections. We expect that since December 15, when we sent you notice of the subpoenas, or since December 20, when you formally agreed to accept service, you will have had sufficient opportunity to determine whether you will rely upon objections to withhold production. If your objections do serve as a basis for withholding documents, we will need to move to compel production.

We look forward to discussing these pressing matters with you or another member of your team early next week. Thank you.

Kind regards,

Haley K. Costello Essig

Elias Law Group LLP

202-968-4675

(she/her)

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From: Leif Olson <Leif.Olson@oag.texas.gov>

Sent: Thursday, January 27, 2022 6:16 PM

To: Haley Costello Essig <hessig@elias.law>; Aaron Barnes <Aaron.Barnes@oag.texas.gov>; Eric Hudson

<Eric.Hudson@oag.texas.gov>; Jeff White <Jeff.White@oag.texas.gov>; Kathleen Hunker

<Kathleen.Hunker@oag.texas.gov>; Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>

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Baron <nbaron@elias.law>; Mike Jones <mjones@elias.law>

Subject: RE: LUPE v. Abbott - Objections and Responses to Subpoenas for Production

Haley,

Most of our team is in trial in El Paso right now and most of the team will be preparing for another PI hearing next week. This includes most of the lawyers who were working on this production, so we may not be able to find time for this until late, rather than early, next week. We will keep you posted.

Are there any particular concerns you can point to help us determine how much time we might need to set aside?

From: Haley Costello Essig <hessig@elias.law>
Sent: Thursday, January 27, 2022 4:51 PM
To: Aaron Barnes <Aaron.Barnes@oag.texas.gov>; Eric Hudson <Eric.Hudson@oag.texas.gov>; Jeff White <Jeff.White@oag.texas.gov>; Kathleen Hunker <Kathleen.Hunker@oag.texas.gov>; Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>; Leif Olson <Leif.Olson@oag.texas.gov>
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Subject: RE: LUPE v. Abbott - Objections and Responses to Subpoenas for Production

Counsel:

We would like to schedule a meet and confer for early next week to discuss the objections and responses from Senator Hughes, Senator Bettencourt, Representative Cain, and Representative Mir that you sent below. Please let us know your availability at your earliest convenience.

Kind regards,

Haley K. Costello Essig

Elias Law Group LLP

202-968-4675
(she/her)

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From: Aaron Barnes <Aaron.Barnes@oag.texas.gov>
Sent: Thursday, January 20, 2022 5:27 PM
To: Graham White <gwhite@elias.law>; nperales@maldef.org; christopher.bell@friedfrank.com; jason.kanterman@friedfrank.com; jlongoria@maldef.org; michael.keats@friedfrank.com; rebecca.martin@friedfrank.com; liz.ryan@weil.com; paul.genender@weil.com; morales-doyles@brennan.law.nyu.edu; alexander.cohen@weil.com; andrew.garber@nyu.edu; sweren-beckere@brennan.law.nyu.edu; jasleen.singh@nyu.edu; matt.berde@weil.com; patrick.berry@nyu.edu; bcléments@freespeechforpeople.org; laura.rosenbaum@stoel.com; wendy.olson@stoel.com; chostetler@freespeechforpeople.org; elijah.watkins@stoel.com; jbonifaz@freespeechforpeople.org; marc.rasich@stoel.com; rfein@freespeechforpeople.org; sean@lyonsandlyons.com; gyeomans@naacpldf.org; kdulaney@reedsmith.com; jholmes@naacpldf.org; ksadasivan@naacpldf.org; kbroughton@reedsmith.com; lspencer@reedsmith.com; abadat@naacpldf.org; scummings@reedsmith.com; wakschlag@thearc.org; Uzoma Nkwonta <unkwonta@elias.law>; Kassi Yukevich <kyukevich@elias.law>; Jonathan Hawley <jhawley@elias.law>; Joseph Posimato <jposimato@elias.law>; Marc Elias <melias@elias.law>; Meaghan Mixon <mmixon@elias.law>; acepedaderieux@aclu.org; asegura@aclutx.org; hani@texascivilrightsproject.org; jvattamala@aaldef.org; jamunson@jenner.com; ldavis@drtx.org; lostrom@drtx.org; mimi@texascivilrightsproject.org; ryan@texascivilrightsproject.org; sosaki@aclu.org; skumar@aclutx.org; slakin@aclu.org; slorenzo-giguere@aaldef.org; tbuser-clancy@aclutx.org; umittal@jenner.com; asavitzky@aclu.org; aharris@aclutx.org; daniel.freeman@usdoj.gov; Michael.Stewart3@usdoj.gov; Yun, <Jennifer.Yun@usdoj.gov>; Dana.Paikowsky@usdoj.gov
Cc: Eric Hudson <Eric.Hudson@oag.texas.gov>; Jeff White <Jeff.White@oag.texas.gov>; Kathleen Hunker <Kathleen.Hunker@oag.texas.gov>; Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>; Leif Olson <Leif.Olson@oag.texas.gov>
Subject: LUPE v. Abbott - Objections and Responses to Subpoenas for Production

Counsel,

Attached please find the objections and responses to the subpoenas for production that were issued to Senator Hughes, Senator Bettencourt, Representative Cain, and Representative Mir in *LUPE v. Abbott*, 5:21-cv-00844-XR (W.D. Tex.).

Thank you.

Best regards,

J. Aaron Barnes
Special Counsel
Special Litigation Unit
OFFICE OF THE ATTORNEY GENERAL
(512) 936-2021
aaron.barnes@oag.texas.gov

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